

the natural setting and surroundings by meeting the following standards:

- (a) Retaining walls shall be of a medium to dark earthtone color.
- (b) Retaining walls shall be articulated in either a vertical or horizontal plane, e.g. advancing and receding vertical faces of walls or articulated top of wall.
- (c) The materials of the walls shall not be wire cut concrete block or similar materials.
- (d) Materials to be used shall provide a rough texture such as natural stone, brick veneer, fluted or split face stone, crib block, wood, or similar materials.

(Ord. No. 854, § 1, 11-26-91)

## **ARTICLE V. EXCEPTIONS, REVOCATIONS, SUSPENSIONS, EXPIRATION, APPEALS, FEES, BONDS AND PENALTIES**

### **Sec. 9-48. Exceptions.**

Exceptions to the provisions of this chapter may be authorized by the planning commission upon making all of the following findings:

- (a) Site conditions are such that it is impractical or impossible to comply with all provisions of this chapter.
  - (b) The exception is necessary for the owner to accommodate reasonable use of the site.
  - (c) The exception will not impair public safety.
- (Ord. No. 854, § 1, 11-26-91)

### **Sec. 9-49. Suspension, restoration and revocation of permit.**

(a) Any permit issued under the provisions of this chapter shall be suspended by the director of public services upon finding that the terms of the permit are being violated. The suspension shall be in writing and the permittee shall stop all work immediately upon receiving such notification.

(b) The director of public services may determine that the violations of the terms of the permit have been remedied and restore a suspended permit, requiring as a condition of such restoration any measure found necessary to compensate for or repair any damage resulting from the violation of the terms of the permit.

(c) A suspended permit may be permanently revoked only by the planning commission following written notice to the permittee and a public hearing. To do additional grading, the holder of a revoked permit must file a new application for a grading permit.

(Ord. No. 854, § 1, 11-26-91)

### **Sec. 9-50. Expiration of permit.**

A grading permit will expire if grading has not begun within one (1) year of issuance or is not completed within one and one-half (1½) years of starting work or is not completed according to a schedule approved as a part of the permit.

(Ord. No. 854, § 1, 11-26-91)

### **Sec. 9-51. Transfer of permit.**

A grading permit may be transferred to another person upon notification and certification to the satisfaction of the director of public services that the new permittee is willing and able to accept responsibility for any grading already undertaken and to meet all of the permit conditions.

(Ord. No. 854, § 1, 11-26-91)

### **Sec. 9-52. Appeals.**

(a) All administrative decisions made in accord with provisions of this chapter may be appealed to the planning commission.

(b) The owner of the property where grading is proposed, the applicant, or interested persons, defined as those owning property within three hundred (300) feet of the proposed grading, may appeal planning commission decisions to the city council. Planning commissioners and staff who participated in the decision may not appeal to the city council.

(c) Appeals to the city council must be made within ten (10) days of the decision of the planning commission. Appeals shall be made on a form provided by the planning department. In addition to any other information deemed necessary by the planning director, the form shall request the reasons for appeal and why the applicant is eligible to appeal under this section.

(Ord. No. 854, § 1, 11-26-91)

### **Sec. 9-53. Fees and deposits.**

Filing fees and deposits shall be as established by resolution of the city council as amended from time to time. The filing fee shall be set to cover

the cost of the city to review and investigate the application and inspect the work in process. A cash deposit shall be required to cover the services of consultants to the city staff to review and investigate the application and inspect the work in process.

(Ord. No. 854, § 1, 11-26-91)

#### **Sec. 9-54. Cash deposit and surety bond.**

Prior to receiving a permit for grading, the applicant shall deposit with the director of public services five hundred dollars (\$500.00) in cash and a surety bond in an amount deemed sufficient by the director of public services to guarantee that all conditions and requirements of the grading permit will be faithfully upheld; that all improvements, including landscaping and landscaping maintenance, will be carried out as, and in the time periods, specified in the permit. The cash deposit and surety bond also will be used by the city, if necessary, to repair, to the satisfaction of the director of public services, any damage caused to the city streets or property by the permittee in the course of grading. The bond shall be executed by sureties approved by the director of public services and shall be in such form as approved by the city attorney. The cash deposit and bond held as security shall be released to the permittee following final inspection of the grading.

(Ord. No. 854, § 1, 11-26-91)

#### **Sec. 9-55. Insurance.**

Prior to receiving a permit for grading, the applicant shall deposit with the director of public services a certificate of a responsible insurance company showing that the applicant is insured in an amount deemed sufficient by the director of public services against any loss or damage to persons or property arising directly or indirectly from the operations of the applicant, or any person acting in or on behalf of the applicant, in carrying on the operations connected directly or indirectly with the grading for which a permit is issued. The applicant shall also deposit with the director of public services an executed release in which the applicant acknowledges all conditions of approval and that the applicant indemnifies and holds the city harmless from any and all claims or causes of action arising either directly or indirectly from the operations of the applicant or any person acting in or on behalf of the applicant in carrying out the

operations connected directly or indirectly with the grading for which a permit is issued.

(Ord. No. 854, § 1, 11-26-91)

#### **Sec. 9-56. Violations and penalties.**

Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and each day of violation shall be considered a separate offense. Conviction of any such violation is punishable by a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for not more than one hundred eighty (180) days or both.

(Ord. No. 854, § 1, 11-26-91)

#### **Secs. 9-57–9-66. Reserved.**

### **ARTICLE VI. FILLING AND DUMPING\***

#### **Sec. 9-67. Permit required.**

No person shall place or deposit or dump on any private property in the city any earthen or other material unless the building official shall have granted a permit to do so.

(Code 1961, § 10.26)

#### **Sec. 9-68. Application for permit.**

No permit to place or deposit or dump earthen or other material on any private property in the city shall be granted except upon the written application of the owner of such property filed with the building official who shall require any such material to be so placed on any private property that the natural drainage of such property and all property adjacent thereto within the same block shall be unaffected by such placing of material thereon.

(Code 1961, § 10.26)

#### **Sec. 9-69. Deposit required.**

Any dumping permit as required by this article may require the applicant to deposit with the building official a sum sufficient in the opinion of the city engineer to assure compliance with the terms of this article including compaction of such material on such property and the construction of any pipe, conduit, retaining wall or other structure reasonably necessary to avoid impeding nat-

\*Editor's note—For the renumbering of this article, see the editor's note at the beginning of this chapter.